

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 15, 2015, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2590

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 25, RELATING TO BARKING DOGS

This Bill proposes to repeal Article 25 of Chapter 22, Kaua'i County Code 1987, as amended, Relating to Barking Dogs. Article 25 established rules and regulations to address noise disturbances caused by dogs barking excessively.

All interested persons who wish to present their comments may do so at the public hearing. Written testimonies prior to the hearing would be appreciated. Copies of the proposed ordinance are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at its subsequent meetings. Meeting notices are posted at least 6 days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2590 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 17, 2015, by the following vote:

AYES: Chock, Hooser, Kagawa, Kaneshiro, Kualī'i, Yukimura,	
Rapoza	TOTAL – 7,
NOES: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0.

Līhu'e, Hawai'i	/s/ Jade K. Fountain-Tanigawa
June 18, 2015	County Clerk, County of Kaua'i

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LĪHU'E, KAUAI, HAWAII, 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

(One publication – The Garden Island – June 29, 2015)

**A BILL FOR AN ORDINANCE
TO AMEND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED,
BY REPEALING ARTICLE 25, RELATING TO BARKING DOGS**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 22, Kauai County Code 1987, as amended, is hereby amended by repealing Article 25 in its entirety as follows:

“[ARTICLE 25. BARKING DOGS

Article 25	Barking Dogs
Sec. 22-25.1	Purpose
Sec. 22-25.2	Definitions
Sec. 22-25.3	Barking Dogs
Sec. 22-25.4	Affirmative Defense
Sec. 22-25.5	Violation-Penalties
Sec. 22-25.6	Enforcement and Liability
Sec. 22-25.7	Civil Action Not Precluded
Sec. 22-25.8	Severability

Sec. 22-25.1 Purpose.

The purpose of this Article shall be to preserve the public peace and good order in the county and to promote the public health, safety, and welfare of the residents of the county by regulating and restricting the barking of dogs in a fair manner, balancing the rights and privileges of dog owners with the rights and privileges of other citizens of the county.

Sec. 22-25.2 Definitions.

“Animal Control Provider” means the duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the County to perform animal control services.

“Barking Dog” means any dog that barks, whines, howls, cries or makes any other unreasonable noise as described in Section 22-25.3 of this Article.

“County” means the County of Kauai.

“Citation” means a notice issued pursuant to this Article that there has been a violation of this article.

“Day or days” as used in this Article shall mean calendar day or calendar days, respectively, unless otherwise expressly provided. The time in which any act provided by law is to be done is computed by excluding the first

day and including the last, unless the last day is a holiday, and then it is also excluded.

“Enforcement Officer” means any person authorized and designated to enforce the provisions of this Article or the laws of the County of Kaua‘i.

“Responsible party” means any person owning, harboring, or keeping a dog; provided that if the owner is a minor under the age of 18 years, the parents, guardian, or other person having the care, custody, or control of the minor shall be rebuttably presumed to be the owner. The person to whom a license was issued pursuant to HRS Section 143-2 shall be rebuttably presumed to be the owner of the dog for purposes of this section, and may include any of the following:

1. A person who allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.

2. A person whose agent, employee, or independent contractor allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.

3. A person who is the owner of, or is a lessee or sub-lessee with the current right of possession, of real property in or upon which a barking dog violation occurs.

4. For the purposes of this article, “person” includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

5. For the purpose of this Article, there may be more than one responsible person for a barking dog violation.

Sec. 22-25.3 Barking Dogs.

No person shall keep any dog(s) which barks, bays, cries, howls or makes any other noise continuously or incessantly for a period of ten (10) minutes or barks, bays, cries, howls or makes any other noise intermittently for a period of twenty (20) minutes within a thirty (30) minute period of time to the disturbance of any person at any time of day or night and regardless of whether the dog(s) is physically situated in or upon private property.

Sec. 22-25.4 Affirmative Defense

A dog shall not be deemed a barking dog for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other reasonable or apparent cause which teased or provoked the dog.

Sec. 22-25.5 Violation-Penalties.

(a) There shall be a fine of Fifty Dollars (\$50.00) for the first violation of this Article. As used in this section, “first violation” shall mean an offense that does not occur within ninety (90) days of the conviction for a previous offense involving the same provision.

(b) There shall be a fine of One Hundred Dollars (\$100.00) for the second violation of this Article if the offense occurred within ninety (90) days of the conviction for one (1) previous offense involving the same provision.

(c) There shall be a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) for the third and any subsequent violation of this Article if the offense occurred within ninety (90) days of the conviction for two or more previous offenses involving the same provision.

(d) Payment of a fine shall not excuse the violator from correcting the barking dog violation. The issuance of a barking dog citation and/or payment of a fine shall not bar the Court from imposing appropriate remedial action to be undertaken by the responsible party, such as, but not limited to, successful completion of a dog behavioral course or the hiring of a dog trainer.

(e) Failure to comply with this Article shall be considered a violation, and not a misdemeanor or petty misdemeanor.

Sec. 22-25.6 Enforcement and Liability.

The provisions of this Article may be enforced by the Animal Control Provider or a duly authorized Enforcement Officer. It shall be a violation of this Article to interfere with the Animal Control Provider's representative or the Enforcement Officer in the performance of their duties.

Sec. 22-25.7 Civil Action Not Precluded.

Nothing contained in this Article shall preclude any person injured by a dog from bringing a civil action against the owner of such dog pursuant to the applicable provisions of state law.

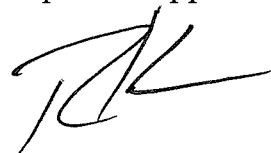
Sec. 22-25.8 Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provisions or applications, and to this end the provisions of this article are severable.]"

SECTION 2. Ordinance material to be repealed is bracketed. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, the brackets, bracketed material, and underscoring need not be included.

SECTION 3. This ordinance shall take effect upon its approval.

Introduced by:



ROSS KAGAWA

DATE OF INTRODUCTION:

June 17, 2015

Līhu'e, Kaua'i, Hawai'i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2590, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 17, 2015, by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7*,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
June 18, 2015



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Hooser was noted as voting silent, but shall be recorded as an affirmative for the motion.